

^{1/} The Petition was released on Public Notice on October 8, 2004; therefore, these Comments are timely filed. *See* 47 C.F.R. § 1.405(a).

translators are located in New Jersey), EMF shares many of NJBA's concerns regarding interference within the FM band. Accordingly, EMF supports NJBA's proposals to more adequately protect full power FM stations from interference by LPFM stations and, in fact, recommends that the Commission consider adopting such proposals beyond the state of New Jersey. However, due to the differences between the rules that govern the LPFM and FM translator services, EMF believes that no additional protections are necessary with respect to FM translator stations.

DISCUSSION

EMF operates listener supported, noncommercial educational FM stations in communities throughout the country. Consistent with NJBA's data, EMF has often observed that listenership extends well beyond its stations' 60 dBu contours, with many EMF stations receiving a large percentage of their support from listeners residing beyond the protected contours of the stations. Due to this fact, EMF has consistently endeavored to operate its own translator stations in compliance with the Commission's rules and will not hesitate to challenge proposed translators that will interfere with reception of its stations by current listeners.

However, EMF objects to NJBA's proposed identical treatment of FM translator and LPFM stations. These services are governed by substantially different rules. Specifically, as NJBA recognizes in its Petition, FM translators, as a secondary service, are prohibited from causing interference in any areas where a full service FM station has a "regularly used" signal, including locations beyond the full service station's applicable protected contour. 47 C.F.R. § 74.1203(a)(3). By contrast, LPFM stations are governed by channel spacing rules with respect to existing full service stations. *See* 47 C.F.R. § 73.807. While these rules are supposed to protect existing full power stations from interference by LPFM stations, as NJBA demonstrates, these

rules ignore the reality that many stations have listenership well beyond their protected contours. Moreover, LPFM stations are only required to protect subsequently authorized full service FM stations if interference is caused within the full service station's principal community contour or community of license (or, with respect to noncommercial educational FM stations, any area of the community of license predicted to receive at least a 60 dBu signal). 47 C.F.R. § 73.809(a). These differences are significant. If an FM translator station causes *any* interference to a full power station, either within or outside the station's protected contour, and that interference cannot be remedied, then the translator must cease broadcasting. Full power stations do not have such protection against interference from LPFM stations. For this reason, changes to the rules governing FM translators are unnecessary, and EMF urges the Commission to reject NJBA's proposals to provide increased protections to New Jersey full power FM stations from FM translators, including protection of the commercial full power 44 dBu contour, adoption of the 20 D/U ratio for second-adjacent channels, and prohibition of the licensing of FM translators proposing operating below 100 watts.

EMF agrees with NJBA, however, that LPFM stations, particularly those proposing operation on the same channel or first adjacent to a full power station, pose substantial interference concerns. Accordingly, EMF supports NJBA's proposals for additional protection of New Jersey full power stations from LPFM stations. In fact, many of the concerns identified by NJBA are not unique to New Jersey. Many stations licensed to communities outside New Jersey enjoy significant listenership beyond their protected contours. These established listening patterns will be threatened by interference from LPFM stations. Thus, EMF urges the Commission to consider adoption of NJBA's proposals beyond New Jersey. Moreover, EMF notes that the ability of LPFM stations to accept substantial amounts of interference exacerbates

the stations' potential for causing interference. EMF therefore recommends that the Commission either substantially limit LPFM stations' ability to accept interference or require these stations to cease operation if they interfere with regularly used broadcast signals.

For the foregoing reasons, EMF urges the Commission to (1) adopt NJBA's proposals to provide increased protections to New Jersey full power FM stations from LPFM stations and to consider adopting such proposals more broadly to protect full power stations outside New Jersey and (2) reject as unnecessary such proposals regarding secondary service FM translators.

Respectfully submitted,

EDUCATIONAL MEDIA FOUNDATION

By: /s/
Joseph Miller
Chief Financial Officer, Treasurer

Dated: November 8, 2004

CERTIFICATE OF SERVICE

I, Rhea Lytle, do hereby certify that I have this 8th day of November, 2004, mailed by first-class United States mail, postage prepaid, copies of the foregoing “**COMMENTS IN RESPONSE TO PETITION FOR RULEMAKING**” to the following:

John F. Garziglia, Esq.
Gregg P. Skall, Esq.
Howard J. Barr, Esq.
Michael H. Shacter, Esq.
Womble Carlyle Sandridge & Rice
1401 Eye Street, NW
Seventh Floor
Washington, DC 20005

Robert E. McAllan, Chairman
Philip H. Roberts, President
New Jersey Broadcasters Association
348 Applegarth Road
Monroe Township, NJ 08831

_____/s/
Rhea Lytle